91-1553

No. ——

FILED
MAR 27 1992
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1991

BILLY JOE CAMP,

Appellant,

v.

PAUL CHARLES WESCH, *et al.*,

Appellees.

On Appeal from the United States District Court for the Southern District of Alabama

AMICUS CURIAE BRIEF OF THE ALABAMA LEGISLATURE AND LIEUTENANT GOVERNOR JAMES E. FOLSOM IN SUPPORT OF APPELLANT SECRETARY OF STATE BILLY JOE CAMP

JAMES H. EVANS
Attorney General of the
State of Alabama

DAVID R. BOYD
(Counsel of Record)
BALCH & BINGHAM
Post Office Box 78
2 Dexter Avenue
Montgomery, Alabama 36101
(205) 834-6500

JOHN F. TANNER
Suite 225 Shelby Medical
Center Building
Alabaster, Alabama 35007
(205) 663-2960

Attorneys for Alabama Legislature and Lieutenant Governor Folsom

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
INTRODUCTION	1
INTEREST OF THE AMICI CURIAE	3
SUMMARY OF ARGUMENT	4
ARGUMENT	5
CONCLUSION	7
APPENDIX	1a

TABLE OF AUTHORITIES

CASES — Page

Burton v. *Hobbie*, 543 F. Supp. 235 (M.D. Ala. 1982), *aff'd*, 459 U.S. 961 (1982) 5
Reynolds v. *Sims*, 377 U.S. 533 (1964) 3, 5
Terrazas v. *Clements*, 537 F. Supp. 514 (N.D. Tex. 1982) 5
Upham v. *Seamon*, 456 U.S. 37 (1982) 5
White v. *Weiser*, 412 U.S. 783 (1973) 3, 5

CONSTITUTIONS

U.S. Const. art. I, § 4 3
Const. of Alabama (1901) art. IV, § 44 3
Const. of Alabama (1901) art. IV, § 46 3

STATUTES AND COURT RULES

Rules of the Supreme Court of the United States, Rule 37.5 2
Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c 5

IN THE

Supreme Court of the United States

OCTOBER TERM, 1991

No. ———

BILLY JOE CAMP,

Appellant,

v.

PAUL CHARLES WESCH, *et al.*,

Appellees.

On Appeal from the United States District Court for the Southern District of Alabama

---

AMICUS CURIAE BRIEF OF THE ALABAMA LEGISLATURE AND LIEUTENANT GOVERNOR JAMES E. FOLSOM IN SUPPORT OF APPELLANT SECRETARY OF STATE BILLY JOE CAMP

INTRODUCTION

On March 5, 1992, a congressional redistricting plan passed by the Alabama Legislature became law when both the Senate and the House of Representatives overrode a gubernatorial veto of the legislative plan. Act No. 92-63 concluded a year-long effort by the Legislature to reform Alabama's congressional districts in advance of the 1992 elections.

Beginning in early 1991, the Legislature's Permanent Committee on Reapportionment was intensely involved in public hearings and committee debate over a variety of congressional redistricting proposals, aiming toward a fall special session which the Governor had promised to

call. With the Legislature poised to begin consideration of the redistricting question, the Governor declined to call the special session.[1]

On September 23, 1991, while the Legislature was still awaiting the Governor's call, the present case was filed in the United States District Court for the Southern District of Alabama. The Legislature was not named as a defendant, but its Permanent Committee on Reapportionment and the committee leadership attempted to intervene, in order to express the Legislature's strong view that it, not a federal court, was the appropriate body to decide on Alabama's congressional district plan (Appendix at 1a-9a). The three-judge court refused to allow the intervention (Appendix at 10a-11a) and required the Legislature—the very body responsible for redistricting—to sit on the sidelines in the limited role of amicus curiae (Appendix at 12a).

At the request of the plaintiff, the three-judge court on March 9, 1992 ordered into effect for the 1992 elections its own congresssional redistricting plan. The district court took this action even though it knew the Legislature's plan—passed in the early days of the 1992 regular session—had become law four days earlier; and even though Secretary of State Camp had formally requested on March 6, 1992 that the court adopt the legislative plan for the 1992 elections.

Secretary of State Camp has appealed the three-judge court's refusal to order the legislative plan used on an interim basis for the upcoming elections. Pursuant to Supreme Court Rule 37.5, the Alabama Legislature and Lieutenant Governor Folsom respectfully submit this Brief

---

[1] The Legislature's extensive efforts in preparation for congressional redistricting and its inability to act sooner—caused by the Governor's decision not to call the special session—are discussed in Secretary of State Camp's Jurisdictional Statement and Motion for Stay.

Amicus Curiae supporting Secretary Camp.[2] The Amici agree with Secretary Camp that the three-judge court erred in ordering its own plan into effect while disregarding the legislative plan; and that this Court should order that the Legislature's plan be used as the interim plan for 1992 congressional elections.

INTEREST OF THE AMICI CURIAE

Article IV, Section 44 of the Constitution of Alabama (1901) vests the legislative power of the State in a Legislature, consisting of a Senate and a House of Representatives. The Legislature's members are elected by the people of Alabama. *Id.* at Section 46.

Article I, Section 4 of the United States Constitution provides that "[t]he times, places and manner of holding elections for . . . representatives, shall be prescribed in each state by the legislature thereof. . . ." Enforcing this mandate, this Court has consistently recognized that state legislatures have primary jurisdiction over redistricting matters. *White* v. *Weiser*, 412 U.S. 783, 795 (1973); *Reynolds* v. *Sims*, 377 U.S. 533, 586 (1964).

The Alabama Legislature, which represents the people of Alabama, has enacted a congressional redistricting plan to be used in the 1992 elections. Adoption of the plan followed months of expensive and time-consuming work by legislators, staff and many interested citizens. The Legislature's plan is a product of political compromise hammered out in the legislative halls by the people's elected representatives. The plan ordered by the three-judge court, on the other hand, has no legislative imprimatur and can in no way be said to reflect the wishes of Alabama's citizens. The Legislature, on behalf of Alabama's citizens, accordingly has a compelling interest in

---

[2] Both the Alabama Senate and the Alabama House of Representatives have passed resolutions supporting use of the legislative plan in the 1992 elections and authorizing the Attorney General to act on their behalf in this matter (Appendix at 13a-16a.)

having its plan, rather than the court plan, used for the upcoming elections. The Legislature's Reapportionment Committee was denied the right to participate as a party in the court below, and thus the Legislature has an even stronger interest in having its views heard by this Court.

Lieutenant Governor Folsom is, by virtue of his office, the President of the Alabama Senate. Governor Folsom believes, as does the Legislature, that the citizens of Alabama have a right to have congressional elections conducted under the Legislature's plan rather than a federal court plan. As a statewide elected official representing those citizens, Governor Folsom joins Secretary of State Camp in urging reversal of the three-judge court's decision.

SUMMARY OF ARGUMENT

The Alabama Legislature has primary jurisdiction over redrawing Alabama's congressional districts. When faced with the option of either ordering the Legislature's plan into effect on an interim basis for the upcoming 1992 elections or, instead, ordering the elections conducted under a court-imposed plan, the three-judge court erred in refusing to defer to the Legislature's plan. The fact that the Legislature's plan had not yet been precleared did not justify its rejection by the three-judge court. Instead, the court should have ordered the plan into effect on an interim basis to the extent the plan meets constitutional and statutory requirements. If the trial court believed the legislative plan was somehow flawed, the proper action would have been to adjust the plan to correct its perceived shortcomings, not to reject the plan outright.

This Court should vacate the judgment of the three-judge court and order that the Alabama Legislature's plan be implemented on an interim basis, pending preclearance, for the 1992 congressional elections.

ARGUMENT

This Court has consistently held that, because redistricting is primarily a matter for state legislative bodies, the federal courts must ordinarily defer to a valid legislative plan. *White* v. *Weiser*, 412 U.S. 783, 795 (1973); *Reynolds* v. *Sims*, 377 U.S. 533, 586 (1964). This rule requires that, when it is necessary because of exigent circumstances for a federal court to become involved in the redistricting process, the court must carefully limit its involvement. For example, in choosing among plans to be implemented, the district court must select the plan which most closely adheres to the plan enacted by the Legislature, to the extent the plan meets constitutional and statutory requirements. *See White*, 412 U.S. at 795; *Upham* v. *Seamon*, 456 U.S. 37, 42 (1982). If the district court were to conclude that a legislative plan falls short of constitutional or statutory requirements in some respect, the court must nevertheless defer to the plan to the extent it is valid, ordering changes only to remedy the plan's flaws. *See Upham*, 456 U.S. at 43; *White*, 412 U.S. at 795; *Burton* v. *Hobbie*, 543 F. Supp. 235 (M.D. Ala. 1982), *aff'd*, 459 U.S. 961 (1982).

The requirement for federal courts to defer to state legislative plans is broad. Thus, when urgent circumstances require a district court to order a redistricting plan into effect, the court should defer to a legislative plan—on an interim basis pending preclearance—even if the plan has not yet been precleared under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c. *See Burton* v. *Hobbie*, 543 F. Supp. at 238-39, relying on *Upham* and *White*, *supra*; *Terrazas* v. *Clements*, 537 F. Supp. 514, 537-40 (N.D. Tex. 1982).

The three-judge court ignored these established principles in declining to order the Alabama Legislature's plan into effect on an interim basis for the 1992 elections, and instead requiring that the court's own plan be used. The fact that the Legislature's plan had not been precleared at the time of the court's choice was not an adequate reason to reject the plan; and—as the three-judge

court obviously realized—there was certainly no basis for choosing the court plan over the Legislature's plan because of any perceived flaw in the latter.[3]

The requirement for federal courts generally to defer to valid legislative enactments is rooted in federalism and comity. The people of Alabama have the constitutional right to have their representatives in Congress chosen in a manner determined by their elected state legislators. When a federal court chooses its own plan over a state legislative plan with respect to which no constitutional or statutory infirmity has been identified, on an interim basis pending preclearance, it denies the state's citizens this basic right. If the 1992 congressional elections are conducted under the court plan rather than the Legislature's plan, the harm to Alabama's citizens will be irreparable.

Not only is there no legal basis for using the court plan instead of the Legislature's plan, there is also no practical reason requiring that choice. As discussed in Secretary of State Camp's Jurisdictional Statement at footnote 9, the Alabama Legislature has passed a bill that would extend the qualifying deadline for congressional candidates to May 4, 1992. On March 24, 1992, the Legislature rejected the Governor's proposed modification to the bill and overrode his veto. Thus the bill became law and is today being submitted for Section 5 review. Although exigent circumstances still exist because of the June 2, 1992 primary, the extension of the qualifying deadline removes any concern that the legislative plan cannot be implemented in a way which is fair to candidates and voters.

The Alabama Legislature recognizes that, because of exigent circumstances, the federal courts are necessarily involved in Alabama's congressional redistricting process.

---

[3] As explained in Secretary of State Camp's Jurisdictional Statement, both the court plan and the legislative plan meet the one person, one vote requirement, and both include a solid majority-black district. Indeed, the legislative plan treats minority voters more favorably than does the court plan by not including any white congressional incumbent in the predominantly black district.

Having assumed jurisdiction, however, the three-judge court should have taken every reasonable opportunity to avoid use of a court-imposed plan. When the Legislature's plan became law on March 5, 1992, the court was presented with such an opportunity. Its refusal to seize that opportunity was erroneous and should be reversed by this Court.

CONCLUSION

The three-judge court ought to have deferred to the Alabama Legislature's congressional redistricting plan and ordered that plan into effect on an interim basis pending preclearance. If the court-ordered plan is used for the 1992 elections, Alabama's citizens will be irreparably harmed by having their members of Congress elected in a manner determined not by the Legislature, as the Constitution requires, but by a federal court. The decision of the district court should be reversed and the case remanded with instructions to the district court to order the 1992 congressional elections conducted under the Legislature's plan.

Respectfully submitted,

JAMES H. EVANS
Attorney General of the
State of Alabama

DAVID R. BOYD
(Counsel of Record)
BALCH & BINGHAM
Post Office Box 78
2 Dexter Avenue
Montgomery, Alabama 36101
(205) 834-6500

JOHN F. TANNER
Suite 225 Shelby Medical
Center Building
Alabaster, Alabama 35007
(205) 663-2960

Attorneys for Alabama Legislature and Lieutenant Governor Folsom

March 27, 1992

APPENDIX

APPROVED

APPENDIX

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

Civil Action No. 91-0787
(Three-Judge Court)

PAUL CHARLES WESCH,

Plaintiff,

vs.

GUY HUNT, JAMES H. EVANS, BILLY JOE CAMP, LIONEL W. NOONAN, HARRY D'OLIVE, DEVON WIGGINS, OTHA LEE BIGGS, JERRY BOGAN, CLARENCE WATTERS, and TOM W. TURNER, all sued in their official or representative capacities only,

Defendants.

[Filed Oct. 15, 1991]

MOTION TO INTERVENE AS DEFENDANTS

Pursuant to Rule 24 of the Federal Rules of Civil Procedure, the Permanent Legislative Committee on Reapportionment of the Alabama Legislature, Representative James M. Campbell, and Senator Ryan deGraffenried (hereinafter collectively, the Committee) move the Court for leave to intervene as defendants in this action. As grounds for this motion, movants show the following:

1. The Permanent Legislative Committee on Reapportionment is an arm of the Alabama Legislature created by statute and vested with duties and authority affecting

Congressional redistricting. 1990 *Ala. Acts* 388 (April 19, 1990) (Exhibit A). The Committee seeks leave to intervene *qua* committee and as the statutory agent of the Legislature.

2. Representative James M. Campbell seeks leave to intervene in his official capacities as Co-chair of the Committee, as a member of the House of Representatives, and as Speaker Pro Tem of the House.

3. Senator Ryan de Graffenried seeks leave to intervene in his official capacities as Co-chair of the Committee, as a member of the Alabama Senate, and as President Pro Tem of the Senate.

4. Movants request leave to intervene as of right, Rule 24(a)(2), or alternatively, permissively. Rule 24(b)(2).

5. The complaint asks the Court to find that the Alabama Legislature has abdicated its duty to redistrict the State's Congressional districts, in accordance with the 1990 Census, in time for the 1992 Congressional elections. *Complaint*, ¶¶ *19-25*. As a remedy, plaintiff requests the Court to preempt the orderly functioning of the State's Legislature and of the Commitee, and to impose upon the State a court-ordered redistricting scheme.[1] *Id.*, Prayer for Relief.

6. Movants should be allowed to intervene as of right under Rule 24(a)(2).[2]

---

[1] It should be noted from the start that the remedy sought by plaintiff is strongly disfavored. For example, in *McDaniel v. Sanchez*, 452 U.S. 130, 138 (1981) the Supreme Court observed that "reapportionment is primarily the duty and responsibility of the State through its legislative or other body, rather than of a federal court."

[2] Rule 24(a)(2) states: "Upon timely application anyone shall be permitted to intervene in an action . . . when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the dis-

7. As the complaint concedes, the Alabama Legislature has the duty to redraw the State's Congressional districts based on the 1990 Census and the constitutional one-person, one-vote requirement. U.S. Const. art. I, § 2, cl. 3; art. I, § 4; *accord* Complaint ¶ 21. Movants Campbell and deGraffenried represent the Permanent Legislative Committee on Reapportionment, a joint committee of both houses of the Alabama Legislature, which is responsible, among its other duties, for examining alternative redistricting proposals and deciding which of them will be recommended to the full membership of the Legislature for its consideration. Specifically, the Committee is charged as an arm of the Legislature "to prepare for and develop a redistricting plan for the state." 1990 *Ala. Acts* 388 § 1(b) (Exhibit A). Consequently, the Committee has an obvious substantial interest in the process of redistricting the Congressional districts.

8. The Court cannot grant the relief sought by plaintiff without as a practical matter absolutely impairing and impeding the Committee's ability to protect its substantial interest in the process of redisricting the State's Congressional districts. Only one redistricting plan can be put into effect. Implementing a redistricting plan by way of procedures other than those stated in 1990 *Ala. Acts* 388 plainly would supplant the Committee's statutory authority for and interest in the process of redistricting.

9. In addition, the Committee is an indispensable party to this action given its role as the State Legislature's agent for "develop[ing] a redistricting plan for the state." *Rule 19(a)*. For this reason, too, movants should be allowed to intervene as of right. The Supreme Court recognizes that "state legislatures have 'primary jurisdiction' over legislative reapportionment," *White v. Weiser*, 412 U.S. 783, 795 (1973), *as quoted in Major v. Treen*,

---

position of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties."

574 F. Supp. 325, 355 (E. D. La. 1983) (three-judge court).[3] A necessary corollary to this fundamental principle is that a state legislature must be given time to conduct redistricting in an orderly manner, and without the too-eager interference of litigants. *See Watkins v. Mabus*, Civil Action No. J91-0364(L), —— F. Supp. ——, 1991 U.S. Dist. Lexis 12646 at *28 (S.D. Miss. August 9, 1991) (three-judge court). *See also McDaniel*, 452 U.S. at 138; *Wise v. Lipscomb*, 437 U.S. 535, 539-40 (1978); *Chisom v. Roemer*, 853 F.2d 1186, 1192 (5th Cir. 1988), *rev'd on other grounds*, —— U.S. ——, 111 S. Ct. 2354, 115 L. Ed. 2d 348 (1991). For this reason, even if this Court were to find, as plaintiff urges, that the 1992 Congressional elections could not be conducted constitutionally using the existing Congressional districts, this Court would not be free to impose its own court-ordered plan on the State without first providing the State Legislature an opportunity to enact a valid redistricting plan.[4] *Wise*, 437 U.S. at 540. Even if a legislature fails to produce a redistricting plan that survives judicial examination, the federal court normally cannot fashion a remedial plan out

---

[3] On the point of judicial deference to the legislature's authority and duty to reapportion, cases involving legisltaive redistricting are equally as authoritative as cases involving Congressional redistricting. Thus in *Major v. Treen*, 574 F. Supp. 325, 355-56 (E.D.La. 1983) (three-judge court), a Congressional redistrincting case, the court cited on this point *Wise v. Lipscomb*, 437 U.S. 535, 540 (1978) (at-large city council elections), *McDaniel v. Sanchez*, 452 U.S. 130 (1981) (county commission districts), *Connor v. Finch*, 431 U.S. 407 (1977) (legislative apportionment), and *Flateau v. Anderson*, 537 F. Supp. 257 (S.D.N.Y. 1982) (three-judge court) (Congressional and legislative districts).

[4] As a three-judge court in the Fifth Circuit said: "Once a court declares an existing legislative reapportionment scheme unlawful, it is 'appropriate, whenever practicable, to afford a reasonable opportunity for the legislature to meet constitutional [or federal statutory] requirements by adopting a substantive measure rather than for the federal court to devise and order into effect its own plan.'" *Major v. Treen*, 574 F. Supp. at 355, quoting *Wise v. Lipscomb*, 437 U.S. at 540.

of totally new cloth, but is obliged to use, in fashioning a remedy, those parts of the existing legislative plan that do not violate the constitution. *Watkins v. Mabus*, 1991 U.S. Dist. Lexis at *36, *citing e.g. Upham v. Seamon*, 456 U.S. 37, 43 (1982) (per curiam).

10. The Committee's substantial interest is not represented by existing parties. Plaintiff is hostile to the jurisdiction of the Committee. None of defendants can represent the interests of the Committee in this action because none of defendants—in contrast to the Committee—is authorized to speak for the State Legislature. Indeed, plaintiff in his complaint identifies defendants as having only administrative duties in the *conduct* of Congressional elections. The duty to conduct elections is distinct from the duty to *redistrict*; the former duty, not the latter one, is the duty at issue in this case. Having no duty to conduct redistricting, these defendants cannot faithfully represent the interest of the Committee. Moreover, movants should be made parties in order to advise the Court of the exact status of matters affecting redistricting, of what has happened to date in redistricting efforts, and otherwise to make available to the Court their technicall expertise in redistricting. Movants alone are uniquely capable of assisting the Court in this manner.

11. Accordingly, even though redistricting the State's Congressional districts is inherently a legislative matter, *McDaniel*, 452 U.S. at 138, there is in this matter no party authorized to speak for the Alabama Legislature. For this reason, and because the Committee is an indispensable party, movants are entitled to intervene in this action as of right. *Rule 24(a)(2); see also Sixty-Seventh Minnesota State Senate v. Beens*, 406 U.S. 187, 190 & 194 (1972) (per curiam) (State Senate allowed to intervene in redistricting suit under Rule 24(a)).

12. Alternatively, the Committee should be permitted to intervene in this action in order to assert claims and defenses that share common questions of law and fact

with plaintiff's complaint, including the defense that this case is not ripe for adjudication. *Rule 24(b)*.[5] Plaintiff wrongly alleges that "there is little or no likelihood that the Legislature will adopt a valid redictricting plan in time for such a plan to be effectively implemented prior to the Congressional primary election scheduled for June 2, 1991." *Complaint*, ¶ 22. He also alleges that Governor Hunt will not call a special session to enact a redistricting plan, *id.*, and that a constitutional wrong is threatened. *Id.*, ¶¶ 23-25. Plaintiff's allegations are erroneous. In fact, the redistricting process long has been moving forward in an orderly and timely manner. Exhibit B. (Affidavit of Marilyn Akers Terry). The Legislature's redistricting efforts began back in the summer of 1987. *Id.* For the last four years, the Legislature has devoted very significant amounts of technical, personnel, financial, and legislative resources to its redistricting effort in order to ensure that redistricting will be done in a comprehensive, effective, and orderly manner. *Id.* This ongoing goal to date has been achieved. *Id.* In addition, the Legislature never intended to take up redistricting in its 1990 regular legislative session. The schedule for the publication of 1990 Census data made this impossible. *Id.* It always has been the intent of the Legislature to enact a redistricting plan during a special session, *id.*, which movants are prepared for and have every expectation will be called by the Governor in a timely manner, consistent with the long-standing plan for Congressional redistricting with which the Governor previously has expressed agreement. This approach will allow sufficient time for the redistricting plan enacted by the Legislature to be precleared by the Attorney General of the United States, and implemented in time for the 1992 Congressional elec-

---

[5] Rule 24(b) allows the timely intervention "when an applicant's claim or defense and the main action have a question of law or fact in common. . . . In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties."

tions. The Committee recently has determined that two proposed redistricting plans—the so-called "Dixon" Plan and the so-called "Reed" Plan—should be recommended for consideration by the Legislature as a whole. *Id.* These facts show that redistricting activities are moving forward, that plaintiff's allegations to the contrary are meritless, and that it would be improper for this Court to interfere in this inherently legislative process. In addition, other courts have recognized the need to allow intervention by the relevant legislative committee in cases of this sort. For example, in *Watkins* v. *Mabus*, *supra*, the three-judge court allowed the Mississippi Legislature's Standing Joint Committee on Legislative Reapportionment and the Standing Committee on Apportionment and Elections of the House of Representatives to intervene in an action challenging the reapportionment of that state's legislative districts. (Exhibit C); *see also Beens*, 406 U.S. at 190 & 194.

13. Allowing permissive intervention will not prejudice or delay the adjudication of the rights of the original parties, but is necessary in order to protect the important interests of the Committee and the State Legislature.

14. This motion is timely made. These movants first received notice of this action on September 26, 1991.

15. The responsive pleading that these movants will file if the Court grants leave to intervene is submitted herewith as Exhibit D as required by Rule 24(c). It will be formally served on the parties if intervention is allowed.

Respectfully submitted on October 11, 1991.

/s/ David R. Boyd
DAVID R. BOYD

/s/ Dorman Walker
DORMAN WALKER
Attorneys for Movants

Of Counsel:

BALCH & BINGHAM
Post Office Box 78
Montgomery, Alabama 36101

CERTIFICATE OF SERICE

I hereby certify that I have this day served a copy of the foregoing motion to intervene, along with the exhibits thereto separately bound, on the following:

Ferrell S. Anders, Esquire
David A. Boyett, II, Esquire
Hamilton, Butler, Riddick, Tarlton & Sullivan, P.C.
Post Office Box 1743
Mobile, Alabama 36633
(for plaintiff)

Mark G. Montiel, Esquire
Albert S. Agricola, Jr., Esquire
407 South McDonough Street
Montgomery, Alabama 36104
(for Defendant Guy Hunt)

Mark Givhan, Esquire
Attorney General's Office
Alabama State House
11 South Union Street
Montgomery, Alabama 36130
(for Defendants James H. Evans & Billy Joe Camp)

James C. Wood, Esquire
1010 Van Antwerp Building
Mobile, Alabama 36602
(for Defendants Lionel W. Noonan)

The Honorable Harry D'Olive
Probate Judge, Baldwin County
Courthouse Square
Bay Minette, Alabama 36507

The Honorable Devon Wiggins
Probate Judge Escambia County
Courthouse
318 Belleville Avenue
Brewton, Alabama 36426

The Honorable Otha Lee Biggs
Probate Judge, Monroe County
Courthouse, Courthouse Square
Monroeville, Alabama 36460

The Honorable Jerry Bogan
Probate Judge, Wilcox County
Courthouse
Camden, Alabama 36726

The Honorable Clarence Watters
Probate Judge, Clarke County
Courthouse
Grove Hill, Alabama 36451

The Honorable Tom W. Turner
Probate Judge, Washington County
Courthouse
Chatom, Alabama 36518

by placing a copy in the United States Mail, postage prepaid, on this the 11th day of October, 1991.

/s/ David R. Boyd
Of Counsel

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

Civil Action No. 91-0787-BH

PAUL CHARLES WESCH,

Plaintiff,

vs.

GUY HUNT, JAMES H. EVANS, BILLY JOE CAMP, LIONEL W. NOONAN, HARRY D'OLIVE, DEVON WIGGINS, OTHA LEE BIGGS, JERRY BOGAN, CLARENCE WATTERS, and TOM W. TURNER, all sued in official or representative capacities only,

Defendants.

ORDERS

It is ORDERED that:

1. The motion filed by the defendants James H. Evans, Attorney General, and Billy Joe Camp, Secretary of State, to dissolve the three-judge court (Doc. #14) is DENIED.

2. The Motion to Dismiss filed by the defendants James H. Evans, Attorney General, and Billy Joe Camp, Secretary of State, (Doc. #16) is DENIED. Motions to extend the time to answer will be viewed with disfavor.

3. The Fed. R. Civ. P. 24(a) Motion to Intervene as of right filed by the Permanent Legislative Committee on Reapportionment of the Alabama Legislature, representative James M. Campbell and Senator Ryan deGraffenried (collectively the "Committee"), (Doc. #10) is DENIED. Any interest the Committee may have is, in the court's

opinion, adequately represented by the Attorney General of the State of Alabama. The Committee's alternative motion for permissive intervention under Fed. R. Civ. P. 24(b) (Doc. #10) is DENIED.

DONE this 22 day of November, 1991.

/s/ Emmett R. Cox
EMMETT R. COX
United States Circuit Judge

/s/ W. Brevard Hand
W. BREVARD HAND
Senior United States District Judge

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

December 5, 1991
Date

To: All Counsel

Re: Civil Action 91-0787-BH

PAUL CHARLES WESCH

vs.

GUY HUNT, *et al.*

You are advised that on the 5th day of December, 1991, the following action was taken in the above styled cause by WILLIAM BREVARD HAND, United States Senior District Judge.

The Motion to Appear as Amicus Curiae filed by Permanent Legislative Committee is GRANTED.

JOHN V. O'BRIEN,
Clerk

By: David F. Jemison
Deputy Clerk

SR 54 AUTHORIZING THE ATTORNEY GENERAL OR THE SECRETARY OF STATE TO ACT ON BEHALF OF THE SENATE IN MATTERS REGARDING CONGRESSIONAL REDISTRICTING.

BE IT RESOLVED BY THE SENATE OF THE LEGISLATURE OF ALABAMA, That the Attorney General may intervene on behalf of the Senate of Alabama in all legal matters concerning the redistricting of the United States Congressional districts in Alabama including, but not limited to, legal matters concerning Act No. 92-63, S. 73 of the 1992 Regular Session and the review of this act by the United States Department of Justice, legal matters concerning the case of Wesch v. Hunt (Civil Action #91-0787, U.S. District Court, Southern District of Alabama), and legal matters concerning redistricting that are the subject of any federal court hearing. The Attorney General or the Secretary of State may, on behalf of the Senate of Alabama, appeal to all appropriate appellate levels, including the United States Supreme Court, any legal matter concerning redistricting of the United States Congressional districts in Alabama including, but not limited to, the case of Wesch v. Hunt.

BE IT FURTHER RESOLVED, That a copy of this resolution be delivered to the Attorney General and the Secretary of State.

Senate 3-11 1992

Rd 1 Rfd Rules

ALERT

DETAIL LISTING FROM FIRST TO LAST STEP

SR 54 BY deGraffenried RESOLUTION, LEGISLATIVE

Attorney General and Secretary of State, may act on behalf of the Senate regarding congressional redistricting matters

03/11	14	Referred to Committee on RULES.
03/11	14	Favorable from Rules. 6 Yeas, 0 Nays.
03/11	14	Dixon Amendment No. 1.
03/11	14	deGraffenried motion to Table. Tabled. Voice vote.
03/11	14	deGraffenried motion to Adopt. 19 Yeas, 7 Nays.

HR 159 AUTHORIZING THE ATTORNEY GENERAL OR THE SECRETARY OF STATE TO ACT ON BEHALF OF THE HOUSE OF REPRESENTATIVES IN MATTERS REGARDING CONGRESSIONAL REDISTRICTING.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE LEGISLATURE OF ALABAMA, That the Attorney General may intervene on behalf of the House of Representatives in all legal matters concerning the redistricting of the United States Congressional districts in Alabama including, but not limited to, legal matters concerning Act No. 92-63, S. 73 of the 1992 Regular Session and the review of this act by the United States Department of Justice, legal matters concerning the case of Wesch v. Hunt (Civil Action #91-0787, U.S. District Court, Southern District of Alabama), and legal matters concerning redistricting that are the subject of any federal court hearing. The Attorney General or the Secretary of State may, on behalf of the House of Representatives, appeal to all appropriate appellate levels, including the United States Supreme Court, any legal matter concerning redistricting of the United States Congressional districts in Alabama including, but not limited to, the case of Wesch v. Hunt.

BE IT FURTHER RESOLVED, That a copy of this resolution be delivered to the Attorney General and the Secretary of State.

ALERT

DETAIL LISTING FROM FIRST TO LAST STEP

HR 159 BY Box RESOLUTION, LEGISLATIVE

Attorney General and Secretary of State, may act on behalf of the House of Representatives in matters regarding congressional redistricting

03/12	15	Box motion to suspend the rules and adopt. Lost. 51 Yeas, 21 Nays.
03/12	15	Sent to Committee on RULES.
03/17	16	Favorable report from Rules. Adopted.
03/17	16	Gaines Motion to carry over to legislative day 30. Tabled.
03/17	16	51 Yeas, 28 Nays.
03/17	16	Sanderford Motion to recommit
03/17	16	Sanderford motion tabled. 58 Yeas, 22 Nays.
03/17	16	Box motion to carry over temporarily. Voice vote.
03/19	17	Box motion to suspend the rules and adopt.
03/19	17	Parker P motion the question was Shall The Main Question Be Now Put. Adopted. 33 Yeas 30 Nays.
03/19	17	Box motion to adopt. 60 Yeas, 11 Nays.